

Law Forward: Weighs in on redistricting proposal that will shape how Wisconsin is governed for the next ten years

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Madison, WI - A proposed rule change to Wisconsin's redistricting process will allow politicians to manipulate the process for partisan gain if it's allowed to take effect. Law Forward and dozens of other individuals, scholars, and citizen groups who favor fair and representative government submitted comments yesterday to the Wisconsin Supreme Court, urging the Court to reject the rule. If allowed to go into effect, the proposed change would alter procedures for any lawsuits regarding state legislative or congressional redistricting, in part by vesting exclusive jurisdiction in the Wisconsin Supreme Court and giving only government bodies and political parties the right to participate. The process for drawing new state legislative and congressional districts in Wisconsin will begin next year.

"The redistricting process cuts to the heart of how the people of Wisconsin are represented in the Wisconsin Legislature and U.S. Congress," said Doug Poland, Litigation Director at Law Forward. "The rule being considered by the Supreme Court is an attack on fair elections, and, if it succeeds, Wisconsin residents will pay the price for years to come. We saw in the past decade how politicians can manipulate the process of drawing districts to benefit themselves, their political party, and their financial supporters. Wisconsin voters have the right to be in charge of our state government by choosing who will represent them, rather than having legislators choose their voters for partisan political purposes. That means establishing a redistricting process - including litigation - that is fair, transparent, and trustworthy.

Law Forward has been educating and engaging stakeholders on this proposed rule since the petition for a new rule, unique to redistricting cases, was filed this summer. Despite a short window for public comment immediately following the November election, Law Forward has supported dozens of organizations, legal experts, and individuals in weighing in on the proposal and its shortcomings.

“This petition raises issues of court procedures,” said Mel Barnes, Staff Counsel at Law Forward. “But nothing short of the composition of the new districts themselves will be more important to Wisconsin governance in the coming decade; this will impact the lives of every Wisconsinite. The fact that this proposal received nearly 2,000 public comments should highlight the importance of the issue and the concerns this proposed rule raises when the public sees what it does.”

In its own submission to the Court, Law Forward critiqued the shortcomings of the proposal in great detail—from its attempts to shift the job of redistricting away from the political branches and instead dump that job in the Court’s lap, to the ways it would invite premature litigation before new maps could even be drawn. Law Forward’s brief also identified several key drafting errors for the Court and noted the danger of adopting a hastily drafted rule, submitted by a partisan actor shortly before the next round of redistricting.

The Wisconsin Supreme Court has considered and rejected rulemaking on redistricting litigation in the past. In 2003, the Court appointed a nonpartisan committee of experts to study this issue and propose a rule to the Court. After six years of study and two reports to the Court, the justices disbanded the Committee, deciding ultimately not to adopt any special rules for redistricting litigation. Many justices at that time, including Justice David Prosser, who had previously served as speaker of the Wisconsin Assembly and had been the lead plaintiff in a federal lawsuit over redistricting in 1992, expressed concerns that adopting rules specific to redistricting would entangle the Court too early and too deeply in the redistricting process and undermine public perception of the judiciary as nonpartisan. The current proposed rule does not address the justices’ previous concerns. Instead, it presses the Court to adopt a new rule after a short process crammed into the few months remaining before new census data will be released and the redistricting process will begin.

You can read Law Forward’s brief on the rule here: <https://www.wicourts.gov/supreme/docs/2003commentslawforward.pdf>